

Transferees and Fiduciaries

§ 301.6901-1 Procedure in the case of transferred assets.

(a) *Method of collection*—(1) *Income, estate, and gift taxes.* The amount for which a transferee of property of—

(i) A taxpayer, in the case of a tax imposed by subtitle A of the Code (relating to income taxes),

(ii) A decedent, in the case of the estate tax imposed by chapter 11 of the Code, or

(iii) A donor, in the case of the gift tax imposed by chapter 12 of the Code, is liable, at law or

in equity, and the amount of the personal liability of a fiduciary under section 3467 of the Revised Statutes, as amended (31 U.S.C. 192), in respect of the payment of such taxes, whether shown on the return of the taxpayer or determined as a deficiency in the tax, shall be assessed against such transferee or fiduciary and paid and collected in the same manner and subject to the same provisions and limitations as in the case of a deficiency in the tax with respect to which such liability is incurred, except as hereinafter provided.

(2) *Other taxes.* The liability, at law or in equity, of a transferee of property of any person liable in respect of any other tax, in any case where the liability of the transferee arises on the liquidation of a corporation or partnership, or a corporate reorganization within the meaning of section 368(a), shall be assessed against such transferee and paid and collected in the same manner and subject to the same provisions and limitations as in the case of the tax with respect to which such liability is incurred, except as hereinafter provided.

(3) *Applicable provisions.* The provisions of the Code made applicable by section 6901(a) to the liability of a transferee or fiduciary referred to in subparagraphs (1) and (2) of this paragraph (a), include the provisions relating to:

(i) Delinquency in payment after notice and demand and the amount of interest attaching because of such delinquency;

(ii) The authorization of distraint and proceedings in court for collection;

(iii) The prohibition of claims and suits for refund; and

(iv) In any instance in which the liability of a transferee or fiduciary is one referred to in subparagraph (1) of this paragraph (a), the filing of a petition with the Tax Court of the United States and the filing of a petition for review of the Tax Court's decision.

For detailed provisions relating to assessments, collections, and refunds, see chapters 63, 64, and 65 of the Code, respectively.

(b) *Definition of transferee.* As used in this section, the term “transferee” includes an heir, legatee, devisee, distributee of an estate of a deceased person, the shareholder of a dissolved corporation, the assignee or donee of an insolvent person, the successor of a corporation, a party to a reorganization as defined in section 368, and all other classes of distributees. Such term also includes, with respect to the gift tax, a donee (without regard to the solvency of the donor) and, with respect to the estate tax, any person who, under section 6324(a)(2), is personally liable for any part of such tax.

(c) *Period of limitation on assessment.* The period of limitation for assessment of the liability of a transferee or of a fiduciary is as follows:

(1) *Initial transferee.* In the case of the liability of an initial transferee, one year after the expiration of the period of limitation for assessment against the taxpayer in the case of a tax imposed by subtitle A (relating to income taxes), the executor in the case of the estate tax imposed by chapter 11, or the donor in the case of the gift tax imposed by chapter 12, each of which for purposes of this section is referred to as the “taxpayer” (see subchapter A, chapter 66, of the Code).

(2) *Transferee of transferee.* In the case of the liability of a transferee of a transferee, 1 year after the expiration of the period of limitation for assessment against the preceding transferee, or 3 years after the expiration of the period of limitation for assessment against the taxpayer, whichever of such periods first expires.

(3) *Court proceeding against taxpayer or last preceding transferee.* If, before the expiration of the period specified in subparagraph (1) or subparagraph (2) of

this paragraph (c), (whichever is applicable), a court proceeding against the taxpayer or last preceding transferee for the collection of the tax or liability in respect thereof, respectively, has been begun within the period of limitation for the commencement of such proceeding, then within one year after the return of execution in such proceeding.

(4) *Fiduciary*. In the case of the liability of a fiduciary, not later than 1 year after the liability arises or not later than the expiration of the period for collection of the tax in respect of which such liability arises, whichever is the later.

(d) *Extension by agreement*—(1) *Extension of time for assessment*. The time prescribed by section 6901 for the assessment of the liability of a transferee or fiduciary may, prior to the expiration of such time, be extended for any period of time agreed upon in writing by the transferee or fiduciary and the district director or an assistant regional commissioner. The extension shall become effective when the agreement has been executed by both parties. The period agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(2) *Extension of times for credit or refund*. (i) For the purposes of determining the period of limitation on credit or refund to the transferee or fiduciary of overpayments made by such transferee or fiduciary or overpayments made by the taxpayer to which such transferee or fiduciary may be legally entitled to credit or refund, an agreement and any extension thereof referred to in subparagraph (1) of this paragraph (d), shall be deemed an agreement and extension thereof for purposes of section 6511(c) (relating to limitations on credit or refund in case of extension of time by agreement).

(ii) For the purpose of determining the limit specified in section 6511(c)(2) on the amount of the credit or refund, if the agreement is executed after the expiration of the period of limitation for assessment against the taxpayer with reference to whom the liability of such transferee or fiduciary arises, the periods specified in section 6511(b)(2) shall be increased by the period from

the date of such expiration to the date the agreement is executed. The application of this subdivision may be illustrated by the following example:

Example. Assume that Corporation A files its income tax return on March 15, 1955, for the calendar year 1954, showing a liability of \$100,000 which is paid with the return. The period within which an assessment may be made against Corporation A expires on March 15, 1958. Corporation B is a transferee of Corporation A. An agreement is executed on October 9, 1958, extending, beyond its normal expiration date of March 15, 1959, the period within which an assessment may be made against Corporation B. Under section 6511(c)(2) and section 6511(b)(2)(A) the portion of an overpayment, paid before the execution of an agreement extending the period for assessment, may not be credited or refunded unless paid within three years prior to the date on which the agreement is executed. However, as applied to Corporation B such 3-year period is increased under section 6901(d)(2) to include the period from March 15, 1958, to October 9, 1958, the date on which the agreement was executed.

(e) *Period of assessment against taxpayer*. For the purpose of determining the period of limitation for assessment against a transferee or a fiduciary, if the taxpayer is deceased, or, in the case of a corporation, has terminated its existence, the period of limitation for assessment against the taxpayer shall be the period that would be in effect had the death or termination of existence not occurred.

(f) *Suspension of running of period of limitations*. In the cases of the income, estate, and gift taxes, if a notice of liability of a transferee or the liability of a fiduciary has been mailed to such transferee or to such fiduciary under the provisions of section 6212, then the running of the statute of limitations shall be suspended for the period during which assessment is prohibited in respect of liability of the transferee or fiduciary (and in any event, if a proceeding in respect of the liability is placed on the docket of the Tax Court, until the decision of the Tax Court becomes final), and for 60 days thereafter.

§ 301.6902-1 Burden of proof.

In proceedings before the Tax Court the burden of proof shall be upon the Commissioner to show that a petitioner is liable as a transferee or property of a taxpayer, but not to show